



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 15 2005

OFFICE OF
CIVIL RIGHTS

RETURN RECEIPT REQUESTED

Cert. No. 7003 2260 0005 1961 1759

In Reply Refer To:

EPA File No. 08R-05-R4

Title VI Action Committee
C/o Enoch Hagans



Re: REJECTION OF ADMINISTRATIVE COMPLAINT

Dear Mr. Hagans:

On May 17, 2005, the Title VI Action Committee filed an administrative complaint with the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR). The complaint alleges that the Tennessee Department of Environment and Conservation (TDEC) and the City of Clarksville are not in compliance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and EPA's regulations implementing Title VI found at 40 C.F.R. Part 7 (Part 7). In addition, you have requested a Title VI pre-award audit and a Title VI compliance review be conducted on the City of Clarksville.

OCR is responsible for processing and investigating complaints of discrimination filed against programs or activities that receive financial assistance from EPA. Pursuant to EPA's Title VI regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the Part 7 regulations. 40 C.F.R. § 7.120 First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, would violate EPA's Title VI regulations (*i.e.*, an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 days of the alleged discriminatory act. Finally, because EPA Title VI regulations apply to applicants for or recipients of EPA financial assistance, the complaint must be filed against an EPA applicant or recipient that allegedly committed the discriminatory act. 40 C.F.R. § 7.15 (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

After careful consideration, OCR has concluded that it cannot accept the complaint for investigation because it does not meet the jurisdictional requirements described in EPA's regulations implementing Title VI. Specifically, it does not describe a discriminatory act that, if true, would violate EPA's Title VI regulations.

The complaint alleges that the City of Clarksville has not completed a Title VI implementation plan, thereby violating Title VI. The completion of a "Title VI implementation plan" is not an EPA Title VI regulatory requirement for applicants or recipients. Applicants for EPA assistance are required to submit an assurance with their applications stating that they will comply with EPA's Title VI regulations, and also are required to provide compliance information, in accordance with EPA's regulations at 40 C.F.R. § 7.80. The City of Clarksville has complied with 40 C.F.R. § 7.80 requirements and is not in violation with EPA Title VI regulations.

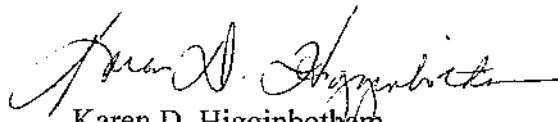
The complaint also alleges that TDEC is in violation of EPA Title VI regulations because they fraudulently signed letters of assurance. Letters of assurance ensure that applicants for EPA assistance, with respect to their programs or activities that receive EPA assistance, will comply with requirements stated in EPA Title VI regulations. As discussed above, the City of Clarksville is not in violation of EPA Title VI regulations, because the completion of a Title VI implementation plan is not a regulatory requirement. Similarly, TDEC's failure to have a Title VI implementation plan does not constitute noncompliance. Therefore, TDEC, with respect to the City of Clarksville, has not fraudulently signed a letter of assurance.

The allegations discussed in the complaint do not meet the jurisdictional requirements. Therefore, OCR must reject the complaint for investigation.

Finally, the complaint requests that EPA conduct a "full and complete Pre-Award Title VI Audit and Compliance Review" on the City of Clarksville. OCR is satisfied that the City of Clarksville has complied with EPA's pre-award requirements and therefore, is currently in compliance with EPA's Title VI regulations.

If you have any questions, please contact Helena Wooden-Aguilar of the OCR External Compliance Program by telephone at (202) 343-9681, via electronic mail at Wooden-Aguilar.Helena@epa.gov, or by mail at U.S. EPA, Office of Civil Rights, Mail Code 1201A, 1200 Pennsylvania Avenue, NW, Washington, D.C., 20460-1000.

Sincerely,



Karen D. Higginbotham
Director

Enclosure

cc: Commissioner James H. Fyke
Tennessee Department of Environment and Conservation
401 Church Street
L & C Annex, 1st Floor
Nashville, Tennessee 37243-0435

The Honorable Don Trotter, Mayor
City of Clarksville
Office of the Mayor
1 Public Square
Clarksville, Tennessee 37040

Stephen G. Pressman, Associate General Counsel
Civil Rights Law Office (MC 2399A)

Nancy Tommelleo, Title VI Coordinator
EPA Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

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RETURN RECEIPT REQUESTED

Cert. No. 7003 2260 0005 1961 1773

In Reply Refer To:

EPA File No. 08R-05-R4

Commissioner James H. Fyke
Tennessee Department of Environment and Conservation
401 Church Street
L & C Annex, 1st Floor
Nashville, Tennessee 37243-0435

Re: REJECTION OF ADMINISTRATIVE COMPLAINT

Dear Commissioner Fyke:

On May 17, 2005, the Title VI Action Committee filed an administrative complaint with the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR). The complaint alleges that the Tennessee Department of Environment and Conservation (TDEC) and the City of Clarksville are not in compliance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and EPA's regulations implementing Title VI found at 40 C.F.R. Part 7 (Part 7). In addition, the complainants have requested a Title VI pre-award audit and a Title VI compliance review be conducted on the City of Clarksville.

OCR is responsible for processing and investigating complaints of discrimination filed against programs or activities that receive financial assistance from EPA. Pursuant to EPA's Title VI regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the Part 7 regulations. 40 C.F.R. § 7.120 First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, would violate EPA's Title VI regulations (*i.e.*, an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 days of the alleged discriminatory act. Finally, because EPA Title VI regulations apply to applicants for or recipients of EPA financial assistance, the complaint must be filed against an EPA applicant or recipient that allegedly committed the discriminatory act. 40 C.F.R. § 7.15 (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

After careful consideration, OCR has concluded that it cannot accept the complaint for investigation because it does not meet the jurisdictional requirements described in EPA's regulations implementing Title VI. Specifically, it does not describe a discriminatory act that, if true, would violate EPA's Title VI regulations.

The complaint alleges that the City of Clarksville has not completed a Title VI implementation plan, thereby violating Title VI. The completion of a "Title VI implementation plan" is not an EPA Title VI regulatory requirement for applicants or recipients. Applicants for EPA assistance are required to submit an assurance with their applications stating that they will comply with EPA's Title VI regulations, and also are required to provide compliance information, in accordance with EPA's regulations at 40 C.F.R. § 7.80. The City of Clarksville has complied with 40 C.F.R. § 7.80 requirements and is not in violation with EPA Title VI regulations.


The complaint also alleges that TDEC is in violation of EPA Title VI regulations because they fraudulently signed letters of assurance. Letters of assurance ensure that applicants for EPA assistance, with respect to their programs or activities that receive EPA assistance, will comply with requirements stated in EPA Title VI regulations. As discussed above, the City of Clarksville is not in violation of EPA Title VI regulations, because the completion of a Title VI implementation plan is not a regulatory requirement. Similarly, TDEC's failure to have a Title VI implementation plan does not constitute noncompliance. Therefore, TDEC, with respect to the City of Clarksville, has not fraudulently signed a letter of assurance.

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Sincerely,


Karen D. Higginbotham
Director

Enclosure

cc: Title VI Action Committee

[REDACTED]
[REDACTED]
[REDACTED]

The Honorable Don Trotter, Mayor
City of Clarksville
Office of the Mayor
1 Public Square
Clarksville, Tennessee 37040

Stephen G. Pressman, Associate General Counsel
Civil Rights Law Office (MC 2399A)

Nancy Tommelleo, Title VI Coordinator
EPA Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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RETURN RECEIPT REQUESTED

Cert. No. 7003 2260 0005 1961 1766

In Reply Refer To OFFICE OF
CIVIL RIGHTS
EPA File No. 08R-05-R4

The Honorable Don Trotter, Mayor
City of Clarksville
Office of the Mayor
1 Public Square
Clarksville, Tennessee 37040

Re: REJECTION OF ADMINISTRATIVE COMPLAINT

Dear Mayor Trotter:

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Sincerely,



Karen D. Higginbotham
Director

Enclosure

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Title VI Action Committee



Commissioner James H. Fyke
Tennessee Department of Environment and Conservation
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